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Letter dated 12 March 1999 from the Permanent Representative of Cyprus to the United Nations addressed to the Secretary-General

Upon instructions from my Government I have the honour to refer to the issue of compulsory population transfer and the implantation of settlers. This is a matter of serious concern to the international community and to Cyprus in particular.

Article 49 of the Fourth Geneva Convention of 1949 and articles 5 and 7 of the statute of the International Criminal Court adopted in Rome on 17 July 1998 are unequivocal in holding that compulsory population transfers constitute not only internationally wrongful acts but also international crimes.

It is also pertinent to refer to the recent decision of the Economic and Social Council, decision 1998/292 of 31 July 1998, on freedom of movement and population transfer, which dealt with the report of the United Nations Special Rapporteur on human rights and population transfer. I would draw attention to the draft declaration on population transfer and the implantation of settlers appended to the report and its articles 7 and 10, which reiterate the fundamental rule of international law that violations of jus cogens cannot be legalized by international agreement and that the international community as a whole and individual States in themselves are, inter alia, under an obligation not to recognize as legal the situation created by such illegal acts.

With regard to the situation in Cyprus, the General Assembly and Security Council have taken positions upholding international legality. More specifically, it should be recalled that the Security Council in its resolution 361 (1974) expressed its grave concern at the plight of the refugees and called for permitting those who wished to do so to return to their homes in safety. Subsequently, in its resolution 365 (1974), the Security Council endorsed

General Assembly resolution 3212 (XXIX), and urged its implementation as soon as possible. In resolution 3212 (XXIX), paragraph 5, the General Assembly considered that all the refugees should return to their homes in safety.

As you are aware, the questions, inter alia, of the right of return of displaced persons and their continuing right to their homes and properties in accordance with international law and human rights norms, as well as the occupation of such properties by Turkish settlers and their repatriation to Turkey, were raised in discussions on the set of ideas with the then Secretary-General, in October and November 1992. As indicated in the report of the Secretary-General on his good offices mission in Cyprus (S/24830 of 19 November 1992, para. 37), the Government of Cyprus then suggested that any basic legal issues be referred to the International Court of Justice.

Moreover, in the summary of the positions of the two sides and of the United Nations, presented by the Secretary-General on 11 November 1992, the United Nations position, at pages 12 and 13, was reflected in terms of Security Council resolution 361 (1974), General Assembly resolution 3212 (XXIX) and Security Council resolution 365 (1974) as urging the taking of appropriate measures to permit persons who wished to do so to return to their homes in safety.

On behalf of the Government of the Republic of Cyprus, I would like to reiterate our commitment to a peaceful solution of the Cyprus problem on the basis of the United Nations resolutions and international law safeguarding the interests and the human rights of all its citizens.

I should be grateful if you would circulate the present letter as a document of the General Assembly, under items 62 and 110, and of the Security Council.

(Signed) Sotos ZACKHEOS
Ambassador
Permanent Representative